IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

ELIZABETH HEARN and
PHILIP C. HEARN **PLAINTIFFS**

V. **CAUSE NO. 3:12CV453-CWR-FKB**

JEFFERY P. REYNOLDS, individually and
d/b/a JEFFERY P. REYNOLDS, P.A.,
MICHAEL V. CORY, JR., DANKS, MILLER & CORY,
JOHN P. COTTINGHAM and JERRY BARRETT **DEFENDANTS**

MOTION TO REMAND

Plaintiffs Elizabeth Hearn and Philip Hearn, by and through undersigned counsel, hereby file this Motion to Remand pursuant to 28 U.S.C. § 1447 and as grounds states:

1. Plaintiffs Elizabeth Hearn and Philip Hearn (sometimes collectively referred to as "the Hearns") filed the complaint in this cause pursuant to and in strict compliance with Rule 65(b) of the Mississippi Rules of Civil Procedure on June 28, 2012. The Complaint seeks injunctive relief against Jeff Reynolds and his law firm Jeffery P. Reynolds, P.A., John Cottingham, III, Michael Cory, Jr., and his law firm Danks, Miller & Cory, and Jerry Barrett (sometimes collectively referred to as "Defendants"). The Temporary Restraining Order, granted on June 29, 2012, enjoins the Defendants from publishing the documents entered in or the existence of *Elizabeth Hearn vs. Philip C. Hearn*, Cause No. M-2012-224 S/2, In the Chancery Court for the First Judicial District of Hinds County, Mississippi, (hereinafter referred to as "the commitment proceeding"). It further orders the Defendants to identify all persons to whom they had already published said sealed documents by July 9, 2012..

2. When the complaint was filed, it was assigned to Judge Denise Sweet Owens, then on vacation. Judge Patricia Wise heard the motion in light of its emergency status and

issued the Temporary Order granting the requested relief. As part of that order, and pursuant to M.R. C. P. Rule 65(c), a hearing on the preliminary injunction was set for July 16, 2012.

3. Defendants Jeffery P. Reynolds and Jeffery P. Reynolds, P.A. filed their Notice of Removal on July 2, 2012, claiming federal question jurisdiction pursuant to 28 U.S.C. § 1331, on the grounds that the Hearns' Complaint referred to the documents in the commitment proceeding as HIPAA-protected medical information, therefore implicating an "important issue of federal law." Defendants argue in the alternative that the reference to HIPAA implicates federal question jurisdiction under the "federal ingredient" doctrine of *Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing*, 545 U.S. 308 (2005).

4. Defendants, as the parties seeking removal, bear the burden of establishing federal jurisdiction over the state court suit. *Boone v. Citigroup, Inc.*, 416 F.3d 382, 388 (5th Cir. 2005) (citing *Willy v. Coastal Corp.*, 855 F.2d 1160, 1164 (5th Cir. 1988)).Defendants do not and cannot meet that burden, as Plaintiffs do not assert a cause of action under HIPAA, or indeed, any federal statute. As federal question jurisdiction does not exist, this case should be removed back to state court.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Elizabeth Hearn and Philip Hearn respectfully request this Court to remand the above styled action to the First Judicial District of Hinds County Chancery Court for all further proceedings.

Respectfully Submitted,

LANGSTON & LANGSTON, PLLC

BY: __/s/ John B, Hunt, IV_________________
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OF COUNSEL:

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CERTIFICATE OF SERVICE

I, John B. Hunt, IV, the undersigned attorney for Elizabeth Hearn and Philip Hearn, hereby certify that I have this day electronically filed a true and correct copy of the foregoing with the Clerk of the Court, utilizing the ECF system, which sent notification of such filing to the following:

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This the 6th day of July, 2012.

__/s/_John B. Hunt, IV_____
JOHN B. HUNT, IV